



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,366	09/08/2003	Anthony J. Baerlocher	0112300-1630	9500
29159	7590	06/25/2007		
BELL, BOYD & LLOYD LLP P.O. Box 1135 CHICAGO, IL 60690			EXAMINER MOSSER, ROBERT E	
			ART UNIT 3714	PAPER NUMBER
			NOTIFICATION DATE 06/25/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

## Office Action Summary

Application No.

10/657,366

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Robert Mosser

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :1/05, 2/05, 3/05, 4/06, 12/06, 4/07.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statements (IDS) entered on January 11<sup>th</sup>, 2005; February 10<sup>th</sup>, 2005, March 21<sup>st</sup>, 2006, July 20<sup>th</sup>, 2006, December 12<sup>th</sup>, 2006, and April 11<sup>th</sup>, 2007, have been considered by the Examiner. A copy of each respective statement including the Examiner's notation is attached for the Applicant's records.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **46-48** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically claim 46 step (e) sets forth that every convertible symbol of said previous game play is a flanking symbol in a subsequent game play, however as the prior steps of the same claim convert the convertible symbols into flanking symbols, there are no convertible symbols remaining after the conversion to define flanking symbols in a subsequent game play. Accordingly it is unclear how the Applicant intendeds for this step to relate to the claimed invention presented in the remainder of the claim.

Claims **47** and **48** fall through dependency on claim **46**.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27, 30-31, 34, 37-40, and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Gomez et al (US 7,077,745).

Claims 1-9, 11, 13-23, 27, 30, and 34: Gomez teaches a slot machine win completion feature including:

a plurality of reels (Figure 3);

a game operable upon a wager by a player(Abstract);

a plurality of symbols including Flanking symbols (Figure 4b Element 30), and non-flanking symbols wherein the non-flanking symbols further comprise a plurality of similar or non-similar convertible (Figure 4b, Element 32, & Col 4:42 -57) symbols and nonconvertible (Figure 4b “fish food” and “gold fi\$h”) symbols; and

a processor to cause the generation of symbols on each of said reels and when a non-flanking convertible symbol appears on the same active payline as a flanking symbol (Figure 4b payline element 28) converting the convertible symbol into a flanking

Art Unit: 3714

symbol (Figure 5, Element 34), in a manner appreciable to the player, and awarding any reward resultant of the conversion to the player (Abstract).

Claims 10, 12, 25, 26, 31, 38-40, and 43: In addition to the above the invention of Gomez further includes the ability to make the described win completion feature an optional feature that would require player action such as a max bet to enable (Col 4:32-41) as the corresponding flanking and convertible symbols would not realized when this feature is not enacted by the player, the enactment of this feature by the player is understood to be equivalent to the player designation of a flanking and/or convertible symbol as claimed.

Claims 24, and 37: In addition to the above the invention of Gomez sets forth spinning the reels (Col 3:6-23), and as best understood the Applicant's presented claim 24 sets forth steps (a) through (j) as the assignment and re-assignment of symbols to reel positions followed by a singular display step (k). Accordingly the presented claim is understood to describe the process of spinning the reels as set forth by Gomez.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3714

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **28-29, 32-33, 35-36, 41-42** and **44-45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gomez et al (US 7,077,745). as applied to at least claims **1-27** above, and further in view of Brown et al (US 2003/0100356).

The invention of Gomez teaches the invention as taught above however is silent regarding the inclusion of an internet network, however in a related symbol conversion game Brown teaches the utilization of the internet network (*Brown* Paragraph 12). It would have been obvious to one of ordinary skill in the art, at the time of invention to have incorporated the use of the internet as taught by Brown in to the invention of Gomez to allow the utilization of the wagering platform for online casinos as taught by Brown.

### ***Conclusion***

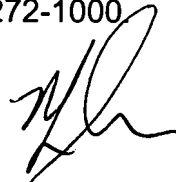
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

Art Unit: 3714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RM/  
June 15<sup>th</sup>, 2007



MARK SAGER  
PRIMARY EXAMINER